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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,156	08/20/2004	Kenji Taguchi	71912-011	5699
7590 06/05/2006 McDermott Will & Emery 600 13th Street N W Washington, DC 20005-3096			EXAMINER SANTOS, ROBERT G	
			ART UNIT 3673	PAPER NUMBER

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/505,156	<b>Applicant(s)</b> TAGUCHI ET AL.	
	<b>Examiner</b> Robert G. Santos	<b>Art Unit</b> 3673	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/20/2004, 8/15/2005 and on 3/09/2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 is/are allowed.
- 6) ☒ Claim(s) 23 is/are rejected.
- 7) ☒ Claim(s) 4-12 and 15-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08202004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 13 and 14 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 9, 2006.

### *Specification*

2. The disclosure is objected to because of the following informalities: On page 37, in line 20: The phrase “22A and 22B” should be changed to the phrase --23A and 23B--. Appropriate correction is required.

### *Claim Objections*

3. Claims 4-12 and 15-23 objected to because of the following informalities:
  - 1) In the first line of claims 4-12 and 15-23: The first instance of the term “The” should be deleted.
  - 2) In claim 18, line 3: The term “raised” should be changed to --raise--.Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 23 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Pat. No. 5,608,932 to Hasegawa (note especially Figures 1 & 8 and column 8, lines 50-67).

***Allowable Subject Matter***

6. Claims 1-3 are allowed. The examiner respectfully asserts that none of the prior art, taken either singly or in combination, is seen to teach or suggest the use of an adjustable bed comprising a platform having a flexible surface; a flex mechanism adapted to flex the platform to form a flexion position and a tilt mechanism adapted to laterally tilt the platform surface *corresponding to an area from an upper body to a lower leg of a bed user lying on the platform surface*; wherein the flex and tilt mechanisms are both operable *with the other mechanism in an operational state* as particularly recited in independent claim 1. With regards to the prior art, only the device disclosed in U.S. Pat. No. 5,500,964 to Bergersen is considered to show clearly a platform (30) which is simultaneously manipulated by both flex and tilt mechanisms; however, the platform of Bergersen '964 is not designed to extend from an upper body to a lower leg of a bed user lying on the platform surface as explicitly claimed.

7. Claims 4-12, 15/1-15/12, 16/1-16/12, 17/1-17/12, 18/1-18/12, 19/1-19/12 and 20/1-20/12 are objected to but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if rewritten to overcome the claim objection(s) as noted above.

8. Claims 21 and 22 are objected to but would be allowable if rewritten to overcome the claim objection(s) as noted above. The examiner respectfully asserts that none of the prior art, taken either singly or in combination, is seen to teach or suggest a sequence for adjusting an adjustable bed comprising the step of operating a tilt mechanism *after* the step of operating a side-member lift mechanism as specifically recited in Applicants' independent claims 21 and 22. Conventional side-member lift mechanisms and tilt mechanisms within an adjustable bed assembly, such as those disclosed in Hasegawa '932 and in U.S. Pat. No. 5,479,665 to Cassidy et al., are generally operated at the same time as opposed to operating separately as recited in Applicants' claims.

### ***Conclusion***

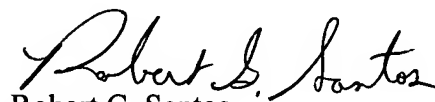
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawakami et al.' 913, Ogawa et al. '327, Kawakami et al. '323, Taguchi et al. '530, Ogawa et al. '475, Yu et al. '252, Salonica '464, Bergersen '964, Cassidy et al. '665, Liao '479, Hung '437, Chen '122, Kanzler '221, Zur '620, Cary et al. '988, Zur '906 and Conkwright '580.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Suzanne L. Barrett can be reached on (571) 272-7053. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.  
May 30, 2006